



# **Michigan Childhood Lead Poisoning Prevention and Control Commission**

## **Annual Report to the Legislature**

**March 2006**

## FOREWORD

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The Childhood Lead Poisoning Prevention and Control Commission convened in June 2005, as directed in Public Act 434 of 2004. At its inaugural meeting, the Commission adopted bylaws and the following mission statement, which reflects its charge under law:

*The mission of the Childhood Lead Poisoning Prevention and Control Commission is to:*

- *Maximize the effectiveness of Michigan's public infrastructure;*
- *Mobilize and enable the private sector infrastructure; and*
- *Integrate the capacity and effects of the public and private sector strategies, in order to prevent and control childhood lead poisoning through public awareness, testing and treatment of lead poisoned children, and prevention and remediation of lead hazards.*

The Commission was required to hold two public hearings to collect input from stakeholders and the public at large. Hearings were held August 2, 2005 in Lansing, and October 24, 2005 in Flint, during Lead Poisoning Awareness Week. Twenty-eight organizations presented verbal or written testimony.

In addition, the Commission solicited information from each state agency providing service related to lead poisoning, and conducted analysis of programs and services in other states.

This report contains the Commission's recommendations for immediate action and also identifies a number of areas requiring further research and inquiry, which will be used to formulate further recommendations which will be reported in the Commission's 2007 annual report.

All testimony presented at the public hearings and other information about the Commission is posted on the Commission's website, which can be reached through a link at [www.michigan.gov/leadsafe](http://www.michigan.gov/leadsafe).

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## INTRODUCTION

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The Childhood Lead Poisoning Prevention and Control Commission was appointed in June 2005, in accordance with Public Acts 400 and 431 of 2004. The nine-member Commission, chaired by Michigan's Surgeon General Kimberlydawn Wisdom, M.D. and co-chaired by Clay Powell, Director, Michigan Rental Property Owners Association, has conducted a review of the numerous state and local government programs addressing prevention and control of lead poisoning, and has collected input from a wide variety of stakeholders through two public hearings and other means. The preponderance of input fell into two categories: **primary prevention**, that is, removing lead from the environment to prevent exposure and testing children according to professional guidelines to detect exposure early, and **securing new sources of sustainable funding**.

Since the June 2004 Final Report of the Task Force to Eliminate Childhood Lead Poisoning, a

Michigan funding for lead poisoning prevention and control is vulnerable in the short term and will exhaust in five years.

Michigan must create new and sustainable funding sources for this important work.

number of achievements have occurred in Michigan to prevent and control childhood lead poisoning. A package of bills was introduced in October 2003, and was passed into law between April and December 2004. A summary of the laws and

their subsequent impact is included as Appendix A. In general, the Commission finds that the interventions implemented as a result of new law are taking Michigan in the right direction in most of the priority areas.

The Commission also finds, however, that significant gaps in programs, services, planning and funding persist. Further, the Commission notes that funding for Michigan lead poisoning activities is extremely vulnerable, and that there is a defined window of opportunity in Michigan during which to make further progress in childhood lead poisoning prevention and control.

## CURRENT FUNDING ENDS SOON; NEW SOURCES ARE ESSENTIAL

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Michigan and the City of Detroit will each compete for independent grant funding from the Centers for Disease Control and Prevention (CDC) for the period 2006-2010. CDC grants provide most of the dollars that fund current Michigan activities related to lead poisoning. Grant awards are not guaranteed to Michigan or to Detroit, nor are the award amounts. If either Michigan or Detroit are not awarded a CDC grant in 2006, the need for new funding streams will be immediate and extreme.

In any case, the 2006 round of CDC grants for lead poisoning is expected to be its last and funds will exhaust in 2010. Grants from Housing and Urban Development (HUD) for lead poisoning prevention and control are similarly vulnerable in the next few years. In addition, the Michigan Department of Environmental Quality (MDEQ) has identified a Detroit site in which lead soil contamination from a former lead smelter site has impacted dozens of residential properties. Remediation of that site will cost \$4-5 million and MDEQ's federal funding sources are diminishing. Michigan must identify new and sustainable sources of funding for the full spectrum of lead poisoning prevention and control.

## COMMISSION WORK PLAN

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The Commission intends, during its tenure, to propose a long-term state plan to eliminate lead poisoning in Michigan. The plan will include the following steps:

March 2006	Annual report to Governor and Legislature presenting recommendations for immediate implementation and issues to be researched for additional long-term recommendations
March 2007	Annual report to Governor and Legislature, presentation of draft long-term state plan
June 30, 2007	Presentation of final long-term state plan to eliminate lead poisoning in Michigan

## OVERVIEW OF OPPORTUNITIES FOR IMPROVEMENT

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The Commission strongly supports emphasis on primary prevention and identification of new, sustainable funding streams. Its assessment finds that significant opportunities for improvement exist in the following broad categories:

1. Testing Children for Lead Poisoning
2. Funding for Lead Poisoning Prevention and Control at Every Level
3. Educating Parents, Rental Property Owners, and Residential Contractors About Appropriate Lead Hazard Abatement Practices, and Strengthening Enforcement of Lead Safe Regulations
4. Maximizing Property Owner Inducements to Identify and Remediate Lead Hazards
5. Enhancing the Effectiveness of Government Programs

Following is a list of the Commission's recommendations and intended actions for each category, some of which are noted as immediate actions and others which are activities that the Commission will request be conducted to support its future recommendations. Background and rationale for each category is provided in Appendix B.



# COMMISSION RECOMMENDATIONS, ACTIONS, AND RESEARCH

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## TESTING CHILDREN FOR LEAD POISONING

1. Governor Granholm should immediately sign SB 728, to enable the Michigan Childhood Immunization Registry (MCIR) to link to lead testing reminders and results for children and make them available to health care providers.
2. When SB 728 is enacted, Michigan Department of Community Health (MDCH) should immediately implement software updates necessary for MCIR to link to lead test results and reminders. Funds for the software should not deplete current MDCH funds for other lead-related efforts.
3. MDCH should immediately form a partnership with the state's medical and nursing associations, the hospital association, Medicaid, Blue Cross, and community coalitions, to educate all pediatric and family practice providers about the new clinical standard from the American Academy of Pediatrics regarding appropriate testing for childhood lead poisoning. The partnership should also develop an internet-based continuing education module on childhood lead testing, which would award Continuing Medical Education credits and Continuing Education Units.
4. MDCH/Medicaid should immediately undertake a partnership with selected Community Based Organizations to conduct education and outreach to specific high-risk regions of the state not expected to reach target blood lead testing levels under Medicaid Health Plan.
5. MDCH and the Michigan Association for Local Public Health (MALPH) should collaborate to immediately evaluate barriers to Local Public Health Agency (LPH) testing of children for lead poisoning, and recommend strategies to remove barriers so that all local health departments are actively engaged in childhood lead poisoning prevention, inspection, enforcement, and control. Work should be complete by June 30, 2006.
6. The State of Michigan should model optimal insurance coverage in testing children for Elevated Blood Lead Levels (EBLL) by assuring coverage of lead testing by all state employee benefit plans and by MICHild and all other state health programs. MDCH should strongly encourage BCBSM and other insurers to cover testing children for EBLL in accordance with the same guidelines.
7. The Commission will research the cost for all public and private insurers to cover testing children for elevated blood lead levels in accordance with the AAP guidelines.
8. A workgroup of Commissioners and MDCH staff will study and recommend processes for automated notification of Blood Lead Level testing to parents of children enrolled in Medicaid Fee-for-Service, in accordance with the American Academy of Pediatrics guidelines, Medicaid requirements and CDC recommendations.

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1. Michigan should implement a Public Health Trust that will accept and distribute funds from a variety of sources and leverage new sources of private sector funding for lead poisoning prevention and control. The Commission will work with MDCH and other interested parties to research the organizational, legal, and governance parameters that a Public Health Trust might adopt, and will encourage expeditious implementation.
  2. MDCH, the Commission, and other agencies should support and assist MDEQ to identify funding sources for identification and remediation of lead-contaminated sites.
  3. Throughout its tenure, the Commission will explore existing and potential funding streams for lead poisoning prevention and control and make recommendations to the Governor and Legislature.
  4. The Commission requests that MDCH, Michigan State Housing Development Authority (MSHDA), and MDEQ collaboratively assess availability of, access to, and use of public and private sources of low-interest loans and other resources available to rental property owners for lead hazard abatement activities, and develop recommendations for new and sustainable sources of additional funding for low-interest loans or remediation grants. The subcommittee should make recommendations to the Commission by September 1, 2006.

**FUNDING FOR LEAD  
POISONING  
PREVENTION AND  
CONTROL AT EVERY  
LEVEL**

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1. MDCH should engage large home repair retailers (Home Depot, Lowes, Menards, etc.) in a partnership to develop a state-wide public service campaign regarding lead hazards and lead-safe home improvement practices, which should include local resources for technical assistance.
  2. The Commission requests that MDCH and providers of lead remediation training develop recommendations regarding improved education of residential construction contractors, and enhanced enforcement of lead remediation rules in the residential remodeling arena. The subcommittee should make recommendations to the Commission by October 1, 2006.
  3. The Commission requests that MDCH staff research the following specific lead hazard control practices, examining the roles associated with and prevalence of each practice in other states, impact data, and rationale for exclusion or limitation in Michigan. Staff will draw expertise from members of Advisory Committees, national experts, and others as appropriate.
    - Interim control options (such as “super cleans,” and other measures less comprehensive than remediation or abatement)

**EDUCATING PARENTS,  
RENTAL PROPERTY  
OWNERS, AND  
RESIDENTIAL  
CONTRACTORS ABOUT  
APPROPRIATE LEAD  
HAZARD  
ABATEMENT  
PRACTICES, AND  
STRENGTHENING  
ENFORCEMENT OF  
LEAD SAFE  
REGULATIONS**

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**MAXIMIZING  
PROPERTY OWNER  
INDUCEMENTS TO  
IDENTIFY AND  
REMEDiate LEAD  
HAZARDS**

- Alternative criteria for lead hazard supervisors, including requirement of a college degree
  - Lead dust sampling technicians
  - Registry activities
  - Other practices and measures for controlling or reducing exposure of children to lead
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1. Michigan should provide state income tax credits for property owners that conduct lead hazard abatement.
  2. The Prosecuting Attorneys Coordinating Council and the Michigan Rental Property Owners Association should:
    - Develop and provide communication materials about PA 434 of 2004 to Prosecuting Attorneys and their staff and to rental property owners; and
    - Develop a record, by county, of cases brought to prosecution and their disposition, including the number of properties remediated, in Michigan's 13 communities deemed at highest risk for lead hazard by MDCH.
  3. The Commission requests that the Michigan Rental Property Owners Association conduct an assessment of the following, and provide a report to the Commission by August 1, 2006:
    - Property owner perceptions of PA 434 of 2004 which ascribes civil penalties when property owners do not comply with lead hazard abatement requirements;
    - Regional variation in enforcement of PA 434 of 2004; and
    - Need for education regarding PA 434 of 2004.
  4. The Commission requests that MDCH, MSHDA, and MDEQ prepare a comprehensive assessment of the liabilities and protections to which property owners, lead hazard workers, and others are exposed to in the continuum of abatement and remediation activities. It should:
    - describe the liabilities in simple terms;
    - thoroughly analyze and articulate civil liability protections that are or could be extended to property owners and contractors for lead exposure that occurred prior to the knowledge that a lead hazard was present; and
    - evaluate and recommend strategies to provide this information to stakeholders through numerous venues.



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The agencies should involve HUD, EPA and other federal resources as appropriate, and should also engage Michigan rental property owners and licensed contractors. A report and recommendations should be presented to the Commission by October 1, 2006.

5. The Commission will investigate opportunities to apply construction and property maintenance codes to multi-unit residential rental properties in Michigan.

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1. The Michigan Department of Human Services (MDHS) should be charged with the goal to provide emergency housing funds to families with young children only for properties that are deemed lead-safe. MDHS should report a workplan to address this charge to the Commission by April 1, 2006.
  2. MDHS should be required to add an environmental assessment that includes an evaluation of lead hazards to the licensure requirements for daycare settings. MDHS should report a workplan to address this charge to the Commission by July 1, 2006.
  3. Michigan should uniformly enforce the Statewide Property Maintenance Code regulations of the Single State Construction Code in all counties and municipalities, bringing compliance with this section into alignment with the enforcement of the other components of the State Construction Code, and thereby significantly eliminating lead hazards in residences.
  4. MDEQ and MDCH should immediately undertake a joint process to assure that whenever MDEQ undertakes soil lead abatement activities involving residential property, MDCH is notified. MDCH should then conduct outreach and provide education to the property owner and/or resident about the high probability of concomitant lead hazards within the dwelling.
  5. MSHDA, MDCH, and MDEQ should immediately begin to develop an annual process to identify each agency's objectives, funds, and regulations related to lead poisoning and to coordinate and maximize the activities and use of resources of each agency. The agencies should present the proposed annual process to the Commission no later than July 1, 2006.
  6. The Commission requests that MDCH and *Early On* work together to assure uniform referral of children age 0-3 with elevated blood lead levels to *Early On*, and to assure appropriate and consistent referral by *Early On* of children with elevated blood lead levels to educational and other resources.
  7. The Commission requests that MDCH and MSHDA jointly conduct a comprehensive review of existing federal and state protocols for lead

**ENHANCING THE  
EFFECTIVENESS OF  
GOVERNMENT  
PROGRAMS**

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hazard reduction/elimination practices. The review should consider evidence-based practice, best available practices, and efficacy, and should include input from relevant federal, state, industry, and advocacy groups.

In particular, the review should consider the differences between 24 CFR Part 35 and the recent Lead Hazard Control rules issued January 12, 2005, and include input from the Michigan Rental Property Owners Association.

MDCH and MSHDA should report to the Commission on this review by November 1, 2006.

# **APPENDIX A**

## **RECENT PROGRESS IN PREVENTING AND CONTROLLING LEAD POISONING**

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Since the June 2004 Final Report of the Task Force to Eliminate Childhood Lead Poisoning, a number of achievements have occurred in Michigan to prevent and control childhood lead poisoning.

Packages of bills were introduced in the House and Senate on October 2, 2003. All bills were passed into law between April and December 2004. The Public Acts (PA) address the following issues:

### **COMMISSION FORMED AND CHARGED**

PA 400 of 2004, passed on October 20, 2004 and PA 431 of 2004, passed on December 21, 2004 defined the role of, and established, the Childhood Lead Poisoning Prevention and Control Commission (HB 5118, SB 753).

**IMPACT** The Commission convened in June 2005. Commissioners have conducted a review of government programs and services related to childhood lead poisoning, and have held two public hearings.

### **PENALTIES FOR LEAD HAZARDS IN RENTAL HOUSING**

PA 434 of 2004 was passed on December 21, 2004 and provides penalties for rental property owners who knowingly rent dwellings with lead hazards. The goal is to educate property owners and remediate lead hazard, rather than to assess large fines or jail property owners. Some Prosecuting Attorneys are dropping criminal charges after a property owner has met the demands of the diversion program.

In addition, administrative rules have recently been amended to allow public health agencies to release information regarding lead poisoned children to prosecutors without requiring parental consent. This will facilitate more aggressive use of PA 434 without placing parents at odds with their landlords.

**IMPACT** The Wayne County Prosecutor has brought charges against a handful of property owners. Twenty-four Wayne County properties have been remediated to date as a result of PA 434. Experience in other counties is not widely known.

### **LEAD-SAFE HOUSING REGISTRY**

PA 433 of 2004, passed on December 21, 2004 called for the development of a "Lead-Safe" Housing Registry.

**IMPACT** The Lead & Healthy Homes Section of MDCH is coordinating efforts to develop the registry. The first phase of development is nearly complete and a working version will be available on the Internet in early Spring. It will contain data from several sources about houses that have been made lead safe, especially in Greater Detroit. Three other phases are planned to integrate additional data sources, to add a GIS component, and to enable property owners to add their own data to the registry.

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## **TESTING OF CHILDREN and REPORTING OF TESTING**

PA 54 of 2004, signed into law on April 12, 2004, mandated electronic reporting of blood lead tests by laboratories analyzing samples from Michigan citizens. The goal is to help labs provide more complete data and in a more consistent way across labs. This will also allow MDCH staff to focus more time on analysis and other projects and less time on data entry.

**IMPACT** Electronic reporting is nearly fully implemented.

PA 55 of 2004, signed into law on April 12, 2004, requires 80% testing levels among Medicaid providers by 2007. Under PA 354 of 2004, Michigan Medicaid is required to achieve a statewide average of 80% of covered children being appropriately tested for blood lead levels by October 2007.

**IMPACT** Steady and encouraging improvements in the testing of children have occurred since the law was enacted. The statewide average for a lead test in a child by age two increased from 36.7% in September 2004 to 50.6% in January 2006, which is an improvement of 38%.

## **PUBLIC AWARENESS CAMPAIGN**

MDCH has launched a broad-based public awareness campaign aimed at parents, identifying lead poisoning as a risk and encouraging parents to ask for lead testing.

## **ADDING LEAD TESTING TO THE MICHIGAN CHILDHOOD IMMUNIZATION REGISTRY**

SB 728, which will enable the Michigan Childhood Immunization Registry (MCIR) to link to lead testing reminders and results for children and make them available to health care providers, has unanimously passed the Senate and House and as of March 14, 2006 is awaiting Governor Granholm's signature.

## **APPENDIX B**

### **BACKGROUND ON ISSUES AND RECOMMENDATIONS**

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#### **TESTING CHILDREN FOR LEAD POISONING**

Under PA 55 of 2004, Michigan Medicaid is required to achieve a statewide average of 80% of covered children being appropriately tested for blood lead levels by October 2007. Steady and encouraging improvements in the testing of children have occurred since the law was enacted. The statewide average for a lead test in a child by age two increased from 36.7% in September 2004 to 50.6% in January 2006, which is an improvement of 38%.

If this rate is sustained, the goal of 80% might be reached by October 2007. However, the Commission believes that the level of sustained improvement required to achieve the goal is unlikely. More importantly, even if the 80% target is reached, the target itself remains far from the desired testing level (and the federal requirement) of 100%.

The Commission has noted persistent gaps in testing children, and notes substantial room for improvement, especially regarding children not continuously enrolled in Medicaid, and those covered by fee-for-service rather than managed care. Gaps and barriers include:

- Missed opportunities to test children during many health-related and non-health related encounters;
- Absence of medical record data to track lead testing as children move within the health care system;
- Inconsistent practice and lack of information within the physician community about appropriate screening and testing; and
- Barriers within Medicaid, especially with regard to reaching fee-for-service providers and among children who do not maintain continuous enrollment in Medicaid.

These and other confounding factors cross multiple sites of care, payers, professional disciplines, and public and private programs. The Commission recommends a comprehensive set of strategies to increase the testing of Michigan's children for lead. Strategies are grouped into the following five categories:

- Testing Infrastructure
- Provider Education Regarding Testing
- Targeted Outreach to Hard-to-Reach Children and Families
- Opportunities for Lead Testing in Alternative Settings
- Insurance Coverage for Blood Lead Testing

#### ***Testing Infrastructure: Use MCIR for Lead Testing***

Throughout all of the deliberations on possible enhancements to lead testing during the past five years, incorporating lead testing into the Michigan Childhood Immunization Registry (MCIR) has been consistently raised as a simple, low-cost investment which will bring large returns in enhanced testing of children for Elevated Blood Lead Levels (EBLL). MCIR offers an effective, simple and widely accepted platform on which to record childhood lead tests

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and results for every child in the state. Any of the nearly 3,000 providers, health systems, emergency rooms, managed and care organizations that use MCIR could readily assess whether a child has had a Blood Lead Level test, needs one, or needs follow up based on results of a test.

MCIR's information infrastructure supported a substantial, sustained increase in Michigan's immunization rates. Lead testing levels would be similarly enhanced by MCIR. In addition to directly increasing testing, the information infrastructure would also indirectly enhance outreach to hard-to-reach children and provider education.

The barriers to using MCIR to display lead testing results are minor, and the Commission finds the slow movement toward this highly valuable innovation to be unacceptable. Barriers are:

- The enabling legislation for MCIR limits its use to childhood immunization data, which precludes lead testing information; and
- The MCIR software must be amended to accept lead testing data, at a cost of \$200,000 in state funds and \$200,000 in Medicaid matching funds.

On September 6, 2005, Senator Bill Hardiman introduced Senate Bill 728 which, if passed, will rename the "Michigan Childhood Immunization Registry" as the "Michigan Care Improvement Registry," and expand it to include information on child lead testing, among other possibilities, as well as end the deletion of individual records upon the child's 20<sup>th</sup> birthday. The bill was unanimously passed by the Senate and House, and as of March 14, 2006 awaits Governor Granholm's signature.

## **RECOMMENDATIONS FOR IMMEDIATE ACTION**

- Governor Granholm should immediately sign SB 728 to enable Michigan Childhood Immunization Registry (MCIR) to link to lead testing reminders and results for children.
- When SB 728 is enacted, MDCH should immediately implement software updates necessary for MCIR to link to lead test results and reminders. Funds for the software should not deplete current MDCH funds for other lead-related efforts.

## ***Provider Education***

Within the provider community, there is inconsistent practice in screening and testing of children for lead poisoning. This contributes to many missed opportunities to test children. A contributing factor to inconsistent practice has been the absence of a firm clinical standard within pediatrics.

In October 2005, the American Academy of Pediatrics issued a policy position and paper on testing children for lead poisoning. AAP's position on testing coincides with CDC recommendations and Medicaid requirements. **This is a comprehensive update from the medical community, and it carries significant leverage in influencing a single clinical standard for screening and testing.**



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## RECOMMENDATIONS FOR IMMEDIATE ACTION

MDCH should form a partnership with the state's medical and nursing associations, the hospital association, Medicaid, Blue Cross, and community coalitions, to educate all pediatric and family practice providers about the new clinical standard from the American Academy of Pediatrics regarding appropriate testing for childhood lead poisoning. The partnership should also develop an internet-based continuing education module on childhood lead testing, which would award Continuing Medical Education credits and Continuing Education Units.

This effort should address the following items and others, which are not widely understood within the provider community:

- options for office-based blood testing
- laboratories approved for lead testing
- public health department testing capacities
- reimbursement for lead testing
- testing pregnant women
- periodicity for testing
- risk assessment versus risk management
- high-risk geography
- testing in non-Medicaid children
- recommended treatment protocols
- subclinical effects of lead

### ***Targeted Outreach to Hard-to-Reach Children and Families***

P.A. 55 of 2004 enables Medicaid to directly contract with community-based organizations (CBOs) to provide lead testing to children if the statewide testing average has not reached 80% by October 2007. As noted, reaching that goal is questionable. In particular, children who are not continuously enrolled in Medicaid and those who are in fee-for-service plans will almost certainly remain outside of most managed care efforts to increase testing.

Michigan should act on these known challenges now, rather than wait for data to prove what is widely understood today. With a small amount of new funding, CBOs in all 13 of Michigan's high-risk communities can, in conjunction with local coalitions, engage in outreach and education to reinforce the public awareness campaign messages, empower parents to demand lead testing, direct families to lead testing resources, and incentivize lead testing and follow up.

The Commission assumes a broad definition of "Community Based Organization" which could include formal and informal groups, faith-based organizations, coalitions, and local business/corporations.

## RECOMMENDATION FOR IMMEDIATE ACTION

MDCH/Medicaid should immediately undertake a partnership with selected CBOs to conduct education and outreach to specific high-risk regions of the state not expected to reach target blood lead testing levels under managed care initiatives.

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### ***Opportunities for Lead Testing in Alternative Settings***

There is no requirement in Michigan's Public Health Code for local public health agencies (LPH) to conduct lead testing. As a result, there is wide variation in LPH participation in lead testing and follow up. In particular, gaps and barriers have been noted in the availability of lead testing in specific public health settings that routinely cross paths with Medicaid children. For example, 80% of children in Medicaid use WIC and 50% of Michigan newborns are eligible for WIC, **making WIC sites the single most opportune location for lead testing in young children.** Some WIC sites conduct lead testing on all children, others conduct none, nor are they required to.

Also, the Commission finds that while Michigan has enabled reimbursement opportunities to LPH for providing lead testing, operational barriers between MDCH labs and LPH are reducing participation in lead testing in numerous LPH agencies. The Commission believes that in Michigan every LPH agency should:

- Provide lead testing on demand;
- Provide lead testing at all childhood immunization clinics;
- Provide lead testing at all WIC sites; and
- Combine lead testing with mandatory hemoglobin testing in WIC settings.

### **RECOMMENDATION FOR IMMEDIATE ACTION**

MDCH and the Michigan Association of Local Public Health (MALPH) should jointly evaluate barriers in LPH testing children for lead poisoning, and recommend strategies to remove barriers so that all local health departments are actively engaged in childhood lead poisoning prevention and control. MDCH and MALPH should provide a written report to the Commission by June 30, 2006.

### ***Insurance Coverage for Blood Lead Testing***

A major inducement to provider testing of blood lead levels is reimbursement for the service. Astonishingly, MICHild, Blue Cross, and many other public and private insurance programs only cover lead testing when symptoms are present. This conflicts directly with the concept of early detection and prevention of avoidable lead poisoning. The Commission finds this unacceptable and discriminatory. The Commission strongly believes that all public and private insurers covering Michigan should be required to test children for lead in accordance with the American Academy of Pediatrics clinical protocol.

### **RECOMMENDATION FOR IMMEDIATE ACTION**

As an immediate step, the State of Michigan should model optimal insurance coverage in testing children for Elevated Blood Lead Levels by assuring coverage of lead testing by all state employee benefit plans, MICHild, and all other state health

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programs, in accordance with the American Academy of Pediatrics clinical protocol. MDCH should then strongly encourage BCBSM and other insurers to cover testing children for EBLL in accordance with the same guidelines.

### **ANALYSIS AND LONG TERM RECOMMENDATION**

The Commission will research the cost to require all public and private insurers to cover testing children for elevated blood lead levels in accordance with the AAP guidelines.

### ***Automated Notification of Blood Lead Testing***

Testing levels in children who are Medicaid beneficiaries under Fee-for-Service do not benefit from the efficiencies of an organized system of care. The Commission believes that a system of automated notification regarding blood testing for lead may be an effective intervention. In particular, testing may increase if parents are provided with a prescription and a list of sites where testing can be done.

### **ANALYSIS AND LONG-TERM RECOMMENDATION**

A workgroup of Commissioners and MDCH staff will study and recommend processes for automated notification of Blood Lead Level testing to parents of children enrolled in Fee-for-Service Medicaid, in accordance with the American Academy of Pediatrics guidelines, Medicaid requirements and CDC recommendations.

## **FUNDING FOR LEAD POISONING PREVENTION AND CONTROL AT EVERY LEVEL**

Michigan is absolutely on the right track with all of its lead poisoning activities. However, funding is no where near adequate to enact the Governor's Task Force 2004 recommendations, much less to enact the Commission's new round of recommendations. The original assessment of funds required to enact the 2004 recommendations called for \$3.78 million. In FY 2005, \$1 million was allocated, and the FY 2006 budget also allocates just \$1 million.

In addition, the Michigan Department of Environmental Quality has identified a Detroit site in which lead soil contamination from a former lead smelter site has impacted dozens of residential properties. Remediation of that site will cost \$4-5 million and is unfunded at this time. MDEQ's federal funding sources are diminishing.

Twenty-seven percent of the recommendations put forth at the Commission's public hearings were directly related to funding lead poisoning activities. **The Commission strongly supports new, sustainable funding streams for lead poisoning prevention and control.**

The June 2004 Task Force recommendations called for the establishment of a Public Health Trust "...to serve as a repository for a variety of potential revenues in order to provide stable,

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ongoing funding streams for the prevention of lead poisoning in children as well as lead remediation and control activities.” This was a priority recommendation of the Task Force, and was reiterated by numerous parties during the Commission’s public hearings. **The Commission strongly supports this recommendation and believes that a Public Health Trust would enhance, organize, and integrate funding streams for lead poisoning prevention and treatment.**

### **RECOMMENDATIONS FOR IMMEDIATE ACTION**

- Michigan should implement a Public Health Trust that will accept and distribute funds from a variety of sources and leverage new sources of private sector funding for lead poisoning prevention and control. The Commission will work with MDCH and other interested parties to research the organizational, legal, and governance parameters that a Public Health Trust might adopt, and will encourage expeditious implementation.
- MDCH, the Commission, and other agencies should support and assist MDEQ to identify funding sources for identification and remediation of lead contamination sites.

### **ANALYSIS AND LONG-TERM RECOMMENDATIONS**

- Throughout its tenure, the Commission will explore existing and potential funding streams for lead poisoning prevention and control and make recommendations to the Governor and Legislature. Options may include:
  - Electric utility programs
  - Banking trust funds
  - MDEQ funds
  - MSHDA loans including special loans available for medical needs
  - Fees on real estate, builders and other licenses
  - Emergency relief DHS funds
  - Michigan Capital Fund for Housing
  - Michigan Housing Council
  - Tax on sale of paint, replacement windows and doors, other construction/ remodeling supplies
- The Commission requests that MDCH, MSHDA, and MDEQ collaboratively assess availability of, access to, and use of low-interest loans and other resources available to property owners for lead hazard abatement activities, and develop recommendations for new and sustainable sources of additional funding for low-interest loans or remediation grants. The subcommittee should make recommendations to the Commission by September 1, 2006.

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## **EDUCATING PARENTS, RENTAL PROPERTY OWNERS, AND RESIDENTIAL CONTRACTORS ABOUT APPROPRIATE LEAD HAZARD ABATEMENT PRACTICES, AND STRENGTHENING ENFORCEMENT OF LEAD SAFE REGULATIONS**

Well-intended parents, rental property owners, “do-it-yourself” home remodeling aficionados and remodeling contractors are significantly under-educated and ill-equipped regarding all aspects of lead hazards and remediation alternatives and regulations.

### **RECOMMENDATION FOR IMMEDIATE ACTION**

MDCH should engage large home repair retailers (Home Depot, Lowes, Menards, etc.) in a partnership to develop a state-wide public service campaign regarding lead hazards and lead-safe home improvement practices, which should include local resources for technical assistance.

### **ANALYSIS AND LONG-TERM RECOMMENDATION**

- The Commission requests that MDCH and providers of lead remediation training develop recommendations regarding improved education of commercial construction contractors and enhanced enforcement of lead remediation rules in the commercial remodeling arena. The subcommittee should make recommendations to the Commission by October 1, 2006.
- The Commission requests that MDCH staff will research the following specific lead hazard control practices, examining the roles associated with and the prevalence of each practice in other states, impact data, and rationale for exclusion or limitation in Michigan.
  - o Interim control options (such as “super cleans” and other measures less comprehensive than remediation or abatement)
  - o Alternative criteria for lead hazard supervisors, including requirement of a college degree
  - o Lead dust sampling technicians
  - o Registry activities
  - o Other practices and measures

Staff will draw expertise from members of Advisory Committees, national experts, and others as appropriate.

## **MAXIMIZING PROPERTY OWNER INDUCEMENTS TO IDENTIFY AND REMEDIATE LEAD HAZARDS**

The Commission strongly believes that rental property owners are accountable for the consequences of lead hazards on their properties. Widespread consensus holds that a

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comprehensive “carrot and stick” approach to inducing rental property owners to identify and remediate lead hazard is the most successful strategy. Many testimonials suggested that Michigan develop a more robust and comprehensive strategy in this regard. PA 434 of 2004 set forth new penalties to property owners who knowingly rent dwellings with lead hazards. The law was a good start, but the Commission finds that further inducements are necessary and recommends an integrated series of actions to maximize property owner inducements to identify and remediate lead hazards.

PA 434 of 2004, in combination with increasing litigation related to lead poisoning, has created increasing sensitivity to lead hazards among property owners. However, rather than increasing vigilance in remediation, the unanticipated consequence seems to be a growing reluctance among rental property owners to conduct any testing for lead hazard, lest liability be ascribed. The liability protections built into the law are not well understood, nor is the intent of the law. Also, the degree to which prosecutors are using PA 434 of 2004 is not widely known, and there has been no dialogue among prosecutors about their experience with it.

On the “carrot” side of the equation, lead hazard abatement can be very costly, and tax credit and funding inducements in Michigan are inadequate. In addition, multiple funding sources exist, with inconsistent requirements. Some involve waiting and others are under-used. Regardless, Michigan must make new dollars available to property owners for lead hazard abatement.

### **RECOMMENDATIONS FOR IMMEDIATE ACTION**

- Michigan should provide state income tax credits for property owners that conduct lead hazard abatement.
- The Prosecuting Attorneys Coordinating Council and the Michigan Rental Property Owners Association (MRPOA) should:
  - o Develop and provide communication materials about PA 434 of 2004 to Prosecuting Attorneys and their staff and to rental property owners; and
  - o Develop a record, by County, of cases brought to prosecution and their disposition, including the number of properties remediated in Michigan’s 13 highest risk communities.

### **ANALYSIS AND LONG-TERM RECOMMENDATIONS**

- The Commission requests that the MRPOA conduct an assessment of the following, and provide a report to the Commission by August 1, 2006:
  - o Property owner perceptions of PA 434 of 2004 which ascribes civil penalties when property owners do not comply with lead hazard abatement requirements;
  - o Region variation in enforcement of PA 434 of 2004; and
  - o Need for education regarding PA 434 of 2004.



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- The Commission requests that MDCH, MSHDA, and MDEQ prepare a comprehensive assessment of the liabilities and protections to which property owners, lead hazard workers, and others are exposed to in the continuum of abatement and remediation activities. It should:
    - o Describe the liabilities in simple terms;
    - o Thoroughly analyze and articulate civil liability protections that are or could be extended to property owners and contractors for lead exposure that occurred prior to the knowledge that a lead hazard was present; and
    - o Evaluate and recommend strategies to provide this information to stakeholders through numerous venues.

The agencies should involve HUD, EPA and other federal resources as appropriate, and should also engage Michigan rental property owners and licensed contractors. A report and recommendations should be presented to the Commission by October 1, 2006.

- The Commission will investigate opportunities to apply construction and property maintenance codes to multi-unit residential rental properties in Michigan.

## **ENHANCING THE EFFECTIVENESS OF GOVERNMENT PROGRAMS**

The Commission has observed complexities, fragmentation, and gaps within and among public programs and practices that prevent and treat lead poisoning. These programs and practices form the backbone upon which community-based efforts to address local lead poisoning issues either succeed or fail. The Commission recommends the following actions to engage government partners more effectively.

### ***Placing Young Children in Lead-Safe Housing***

Local Department of Human Service (DHS) offices provide vouchers to families for emergency housing. DHS also licenses day care providers. Both scenarios are rich with opportunities to prevent exposure to lead hazards. Yet DHS as a state agency has no charge or policy objective to consider the prevention of lead poisoning in its programs or practices. Also, certain DHS offices have undertaken lead-safe housing practices independently and with success, but have no venue for sharing those practices with other county DHS entities.

## **RECOMMENDATIONS FOR IMMEDIATE ACTION**

- The Michigan Department of Human Services (MDHS) should be charged with the goal to provide emergency housing funds to families with young children only for properties that are deemed lead-safe. MDHS should report a workplan to address this charge to the Commission by April 1, 2006.

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- MDHS should be required to add an environmental assessment that includes an evaluation of lead hazards to the licensure requirements for daycare settings. MDHS should report a workplan to address this charge to the Commission by July 1, 2006.

### ***Integrating Pre-K Education and Lead Poisoning Programs***

*Early On* is an inter-agency program providing services to children aged 0-3 in 59 service areas covering all of Michigan. Children qualify for *Early On* if they experience either developmental delays or an established condition in any of nine categories. One of the categories of established condition is toxic exposure. Therefore, any child aged 0-3 with a blood level of 10 mcg/dll or higher is automatically eligible for *Early On* services.

The Commission finds that referral of lead poisoned children aged 0-3 to *Early On* is inconsistent across the service areas, and that referral by *Early On* of lead poisoned children to Early Head Start and other educational resources is also inconsistent. This is a significant gap in bringing lead poisoned children the full continuum of services available to them.

### **ANALYSIS AND LONG-TERM RECOMMENDATION**

The Commission requests that MDCH and *Early On* work together to assure uniform referral of children aged 0-3 with elevated blood lead levels to *Early On*, and to assure appropriate and consistent referral by *Early On* of children with elevated blood lead levels to educational and other resources.

### ***Lead Hazard Remediation and Abatement***

Numerous state agencies are involved in the many aspects of lead hazard remediation and abatement. The Commission notes that there are substantive points of disagreement, lack of coordination, and/or conflict between units of state government and discrepancies between state and federal requirements. While this is not unexpected given the complexities of many layers of federal and state law, regulation and administration that address lead hazards, the Commission believes that certain issues call for overt attention in Michigan.

If the Property Maintenance Code requirements under Michigan's Single State Construction Code were uniformly enforced throughout the state, a significant portion of lead-contaminated housing would be addressed. The Commission notes that enforcement of the Property Maintenance Code portion varies widely within and across counties and municipalities, whereas other components of the State Construction Code are far more uniformly enforced.

Also, the Commission notes that there is no formal obligation for MDEQ to notify MDCH when it undertakes soil lead abatement activities. As a result, some residential properties are not evaluated for indoor lead hazards, reducing the effectiveness of outdoor interventions. This gap is easily bridged.

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## RECOMMENDATIONS FOR IMMEDIATE ACTION

- Michigan should uniformly enforce the Statewide Property Maintenance Code regulations of the Single State Construction Code in all counties and municipalities, bringing compliance with this section into alignment with the enforcement of the other components of the State Construction Code, and thereby significantly eliminating lead hazards in residences.
- MDEQ and MDCH should immediately undertake a joint process to assure that whenever MDEQ undertakes soil lead abatement activities involving residential property, MDCH is notified. MDCH should then conduct outreach and provide education to the property owner and/or resident about the high probability of concomitant lead hazards within the dwelling.

## ANALYSIS AND LONG-TERM RECOMMENDATION

The Commission requests that MDCH and MSHDA jointly conduct a comprehensive review of existing federal and state protocols for lead hazard reduction/elimination practices. The exercise should consider evidence-based practice, best available practices, and efficacy, and should include input from relevant federal, state, industry, and advocacy groups.

In particular, the exercise should consider the differences between 24 CFR Part 35 and the recent Lead Hazard Control rules issued January 12, 2005, and include input from the Michigan Rental Property Owners Association.

MDCH and MSHDA should report to the Commission on this exercise by November 1, 2006.

### ***Planning and Allocation of Resources for Lead Poisoning Prevention and Control***

The objectives and activities of MSHDA, MDCH, and MDEQ are intertwined at many points in the complex continuum of lead poisoning prevention and control. At some junctures, their effectiveness is enhanced by one another, at others it is hampered. The need exists for a uniform and/or integrated approach.

## RECOMMENDATION FOR IMMEDIATE ACTION

MSHDA, MDCH, and MDEQ should immediately begin to develop an annual process to identify each agency's objectives, funds, and regulations related to lead poisoning and to coordinate and maximize the activities and use of resources of each agency. The agencies should present the proposed annual process to the Commission no later than July 1, 2006.

## **APPENDIX C**

### **GROUPS AND ORGANIZATIONS THAT PROVIDED TESTIMONY TO THE COMMISSION**

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American Academy of Pediatrics - Michigan Chapter  
Arc of Bay County  
Center for Urban Studies at Wayne State University  
City of Detroit, Planning and Development Department  
ClearCorps/Detroit  
Department of Environmental Quality – State of Michigan  
Detroit Department of Health & Wellness Promotion  
Detroit Lead Partnership  
Detroit Public Schools, Department of Environmental Health and Safety  
Field Neurosciences Institute  
Genesee County Health Department  
Get the Lead Out!  
Lead-Safe NOW!  
LEAP Detroit  
MDCH - Division of Immunization  
Michigan Association of Health Plans  
Michigan Head Start Association  
Michigan Lead Safe Partnership  
Michigan League for Human Services  
Michigan's Children  
Monroe County Health Department  
MSU Extension - Family and Consumer Sciences  
National Association of Pediatric Nurse Practitioners - Michigan Chapter  
Physicians Health Plan of Mid Michigan  
Rental Property Owners Association of Michigan  
State Board of Education – State of Michigan  
Tava Consulting